

State Water Resources Control Board

ORDER WQ 2017-XXXX-DWQ
AMENDING
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR
STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM
SEWER SYSTEMS (MS4s)
ORDER NO. 2013-0001-DWQ
NPDES NO. CAS000004

Order 2013-0001-DWQ was adopted by the State Water Resources Control Board on:	February 5, 2013
Order 2013-0001-DWQ became effective on:	July 1, 2013
This Order amends Order 2013-0001-DWQ and becomes effective on:	<u>XXXX X</u> , 2017

IT IS HEREBY ORDERED that this Order amends Order 2013-0001-DWQ, including Attachment G and Fact Sheet. Additions to Order 2013-0001-DWQ are reflected in underline text and deletions are reflected in ~~strikeout text~~ or as otherwise noted in the proposed agenda package.

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the State Water Resources Control Board on February 5, 2013, and amended on ~~April~~ XXX xx, 2017.

AYE:

NAY:

ABSENT:

ABSTAIN:

Jeanine Townsend
Clerk to the Board

Summary of Proposed Revisions

The following are the proposed revisions amending **Order 2013-0001-DWQ**, NPDES permit for the Discharge of Storm Water from Municipal Separate Storm Sewer Systems (MS4s)

Finding 40. Total Maximum Daily Loads (TMDL) are numerical calculations of the maximum amount of a pollutant that a water body can assimilate and still meet water quality standards. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point sources (waste-load allocations) and non-point sources (load allocations), background contribution, plus a margin of safety. Discharges from Small MS4s are point source discharges subject to TMDLs. TMDLs are a mechanism to achieve compliance with water quality standards (i.e. receiving water limitations in this Order) in impaired water bodies. Incorporation of TMDL-based requirements into the MS4 permit, consistent with applicable basin plans, allows the permittee greater flexibility in achieving the water quality standards in the receiving water by allowing additional time to meet the receiving water limitations. The TMDL-specific requirements of Attachment G are mandated by federal law and federal regulations. Clean Water Act Section 303(d) states that each state “shall” identify impaired waterbodies, “shall” prioritize such waters/watersheds for future development of TMDLs, and “shall” develop TMDLs for the appropriate pollutants in accordance with the prioritization. (33 U.S.C. § 1313(d).) The TMDLs must be approved by U.S. EPA. (*Id.*) The Code of Federal Regulations provides that, once U.S. EPA approves a TMDL for a waterbody, the effluent limitations in any NPDES permit “shall” be “consistent with the assumptions and requirements of any available wasteload allocations.” (40 C.F.R. § 122.44(d)(1)(vii)(B).) Specific to Phase II MS4 permits, the Code of Federal Regulations states that “the permit will include... [m]ore stringent terms and conditions... based on an approved total maximum daily load...” (40 C.F.R. § 122.34(c)(1).) Federal law thus compels the State Water Board to include the TMDL-specific provisions of Attachment G in the Phase II MS4 Permit.

This Order requires Permittees to comply with all applicable TMDL-based requirements listed ~~requires Permittees to comply with all applicable TMDLs approved pursuant to 40 Code of Federal Regulations section 130.7 that assign a Waste Load Allocation to Permittee and that have been identified~~ in Attachment G. These requirements are consistent with the assumptions and requirements of the wasteload allocations established in the relevant TMDLs. (40 C.F.R. §122.44(d)(1)(vii)(B).) ~~The high variance in~~

~~the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance. The requirements were developed by the State Water Board and the Regional Water Boards, in consultation with the permittees. The Regional Water Boards have submitted TMDL-specific permit requirements to the State Water Board, for applicable TMDLs, along with statements~~The Fact Sheet incorporates a discussion explaining establishing how that~~the requirements are designed to achieve~~consistent with the assumptions and requirements of the goals wasteload allocations~~of the TMDLs (incorporated into the Fact Sheet). The TMDL-specific permit requirements are summarized in Attachment G and are an enforceable component of this Order. The Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees and the State Water Board staff and propose any revisions to the State Water Board within one year of the effective date of this Order. TMDLs applicable to non-traditional dischargers in the region of the Los Angeles Regional Water Board are listed in Attachment G without TMDL-specific permit requirements. The Los Angeles Water Board is being directed to develop and propose TMDL-specific permit requirements for Attachment G in consultation with the Permittees and the State Water Board staff within one year of the effective date of this Order. Any such revisions will be incorporated into the permit through a reopener.~~

E. PROVISIONS FOR ALL TRADITIONAL SMALL MS4 PERMITTEES

E.13 WATER QUALITY MONITORING

E.13.b. TMDL Monitoring

~~All Permittees that are assigned a wasteload allocation or identified as a responsible party in a TMDL approved by the U.S. EPA where urban runoff is listed as the source, shall comply with the monitoring requirements included~~implement any monitoring requirements assigned to them~~in Attachment G. and consult with the Regional Water Board within one year of the effective date of the permit to determine the monitoring study design and a monitoring implementation schedule. Where a TMDL is limited to a single constituent within a single reach of the watershed, t~~The Regional Water Board Executive Officer may require additional monitoring, per Water Code § 13383. Permittees shall implement TMDL monitoring as specified by the Regional Water Board Executive Officer.

E.15. TOTAL MAXIMUM DAILY LOADS COMPLIANCE REQUIREMENTS

~~E.15.a. The Permittee shall comply with all applicable TMDLs approved pursuant to 40 Code of Federal Regulations section 130.7 that assign a Waste Load Allocation to the Permittee and that have been identified in Attachment G.~~

E.15.~~ba.~~ WLA, Load Allocations (LA), effluent limitations, implementation requirements, and monitoring requirements are specified in the adopted and approved Regional Water Board Basin Plans and authorizing resolutions which are incorporated herein by reference as enforceable parts of this Order. ~~Applicable Basin Plan amendments and resolutions are identified in Attachment G.~~ Attachment G ~~additionally~~ contains a list of TMDL-specific permit requirements, applicable to identified permittees, consistent with the assumptions and requirements of the applicable wasteload allocations of the TMDLs. ~~developed by the Regional Water Boards for compliance with the implementation requirements of the relevant TMDLs.~~ These requirements are an enforceable component of ~~this Order.~~ Permittees shall comply with Section C.1's requirement to achieve TMDL wasteload allocations by implementing the applicable TMDL-specific permit requirements in Attachment G. A Permittee's full compliance with the applicable requirements, including compliance schedules, in Attachment G, constitutes compliance with Section D's requirement for discharges not to cause or contribute to an exceedance of water quality standards for the specific pollutant and water body addressed in Attachment G.

E.15.b. In some cases, Attachment G includes dates ~~are given~~ that fall outside the term of this Order. Compliance dates that have already passed are enforceable on the effective date of this Order. Permittees may request a time schedule order where a final TMDL compliance deadline is past. Compliance dates that exceed the term of this Order are included for reference, and become enforceable in the event that this Order is administratively extended.

E.15.c. ~~The Regional Water Boards are directed to review, within one year of the effective date of this Order, the TMDL-specific permit requirements contained in Attachment G and to develop or propose revisions, as appropriate, to TMDL-specific permit requirements to the State Water Board after consultation with the Permittees and State Water Board staff. Any proposed revisions by the Regional Water Boards shall be supported by an explanation of how the proposed TMDL-specific permit requirements~~

~~are consistent with the assumptions and requirements of applicable WLAs and with the goals of the TMDL. Where a TMDL is limited to a single constituent within a single reach of the watershed, the Regional Water Board Executive Officer may require additional monitoring, per Water Code § 13383. The State Water Board will incorporate any necessary revisions through a reopener.~~ The State Water Board may ~~additionally~~ revise this Order through a reopener to incorporate any modifications or revisions to the TMDLs in Attachment G, or to incorporate any new TMDLs adopted during the term of this Order that assign a ~~WLA~~ wasteload allocation to a Regulated Small MS4 or that identify a Regulated Small MS4 as a responsible party. In revising Attachment G, the State Water Board will allow adequate notice and public review.

E.15.d. The Permittee shall complete and report the status of its implementation of the specific TMDL implementation requirements that have been incorporated into the permit with each Annual Report via SMARTS. Reporting on TMDL implementation shall include the following information:

- (i) A description of BMPs implemented, including types, number, and locations
- ~~(i)~~ (ii) All supplemental information and reports required under the specific TMDL implementation requirements in Attachment G.
- ~~(ii)~~ (iii) An assessment of the effectiveness of implemented BMPs in progressing towards attainment of wasteload allocations within the TMDLs' specified timeframes
- ~~(iii)~~ (iv) All monitoring data, including a statistical analysis of the data to assess progress towards attainment of wasteload allocations within the TMDLs' specified timeframes
- ~~(iv)~~ (v) Based on results of the effectiveness assessment and monitoring, a description of the additional BMPs that will be implemented to attain wasteload allocations within the TMDLs specified timeframes

E.16. ANNUAL REPORTING PROGRAM

- 16.a. By October 15 of each year, tThe Permittee shall use State Water Board SMARTS to submit a summary of the past year activities for each program element and certify compliance with all requirements of this permit. If a Permittee is unable to certify compliance with a requirement, the Permittee must submit in SMARTS the reason for failure to comply, a description and schedule of tasks necessary to achieve compliance, and an estimated date for achieving full compliance.

F. NON-TRADITIONAL SMALL MS4 PERMITTEE PROVISIONS

F.5 PROVISIONS

F.5.i. TOTAL MAXIMUM DAILY LOADS COMPLIANCE REQUIREMENTS

~~F.5.i.1. The Permittee shall comply with all applicable TMDLs approved pursuant to 40 Code of Federal Regulations § 130.7 that assign a Waste Load Allocation to the Permittee and that have been identified in Attachment G.~~

F.5.i.12. ~~Waste Load Allocations (WLA), Load Allocations (LA), effluent limitations, implementation requirements, and monitoring requirements are specified in the adopted and approved Regional Water Board Basin Plans and authorizing resolutions which are incorporated herein by reference as enforceable parts of this Order. Applicable Basin Plan amendments and resolutions are identified in Attachment G. With the exception of the TMDLs for the Los Angeles Regional Water Board, Attachment G additionally contains a list of TMDL-specific permit requirements developed by the Regional Boards for compliance with the implementation requirements of the relevant TMDLs.~~ Attachment G contains a list of TMDL-specific permit requirements, applicable to identified permittees, consistent with the assumptions and requirements of the applicable wasteload allocations of the TMDLs. Permittees shall comply with Section C.1 requirement to achieve TMDL wasteload allocations by implementing the applicable TMDL-specific permit requirements in Attachment G. A Permittee's full compliance with the applicable requirements, including compliance schedules, in Attachment G, constitutes compliance with Section D's requirement for discharges not to cause or contribute to an exceedance of water quality standards for the specific pollutant and water body addressed in Attachment G.

~~These requirements are an enforceable component of this Order.~~

F.5.i.2. In some cases, ~~dates are given~~ Attachment G includes dates that fall outside the term of this Order. Compliance dates that have already passed are enforceable on the effective date of this Order. Permittees may request a time schedule order where a final TMDL compliance deadline is past. Compliance dates that exceed the term of this Order are included for reference, and become enforceable in the event that this Order is administratively extended.

F.5.i.3. ~~The Regional Water Boards are directed to review, within one year of the effective date of this Order, the TMDL-specific permit requirements contained in Attachment G and to propose to the State Water Board any appropriate revisions after consultation with the Permittees and State Water Board staff. The Los Angeles Regional Water Board will develop TMDL-specific permit requirements within one year of the effective date of this Order in consultation with the Permittees and State Water Board staff. Any proposed revisions by the Regional Water Boards shall be supported by a statement of reasons explaining how the proposed TMDL-specific permit requirements are consistent with the assumptions and requirements of applicable WLAs and with the goals of the TMDL. The State Water Board will incorporate into this Order any necessary revisions, including the statements of reasons through a reopener.~~ The State Water Board may additionally revise this Order through a reopener to incorporate any modifications or revisions to the TMDLs in Attachment G, or to incorporate any new TMDLs adopted during the term of this [General Permit Order](#) that assign a ~~WLA~~[wasteload allocation](#) to the Permittee or that identify the Permittee as a responsible party. ~~Where a TMDL is limited to a single constituent within a single reach of the watershed, the Regional Water Board Executive Officer may require additional monitoring, per Water Code § 13383.~~ In revising Attachment G, the State Water Board will allow adequate notice and public review.

F.5.i.4. The Permittee shall complete and have available a report that includes the status of its implementation of the specific TMDL implementation requirements that have been incorporated into the Order with each Annual Report. The TMDL implementation report shall include the following information:

[\(a\)](#) A description of BMPs implemented, including types, number, and locations

~~(a)~~[\(b\)](#) All supplemental information and reports required under the specific TMDL implementation requirements in Attachment G;

~~(b)~~[\(c\)](#) An assessment of the effectiveness of implemented BMPs in progressing towards attainment of wasteload allocations within the TMDLs' specified timeframes

~~(c)~~[\(d\)](#) All monitoring data, including a statistical analysis of the data to assess progress towards attainment of wasteload allocations within the TMDLs' specified timeframes

~~(d)~~(e) Based on results of the effectiveness assessment and monitoring, a description of the additional BMPs that will be implemented to attain wasteload allocations within the TMDLs/ specified timeframes

F.5.i. ONLINE ANNUAL REPORTING

F.5.j.2 **By October 15 of each year, t**The Permittee shall use State Water Board's SMARTS to submit a summary of the past year activities for each program element and certify compliance with all requirements of this permit. If a Permittee is unable to certify compliance with a requirement, it must submit in SMARTS the reason for failure to comply, a description and schedule of tasks necessary to achieve compliance, and an estimated date for achieving full compliance.